

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**New Hawkeye Care Centers, Inc.,**  
Appellant,

**v.**

**Dickinson County Board of Review,**  
Appellee.

**ORDER**

**Docket Nos. 13E-30-1196; 14-30-0041**  
**Parcel No. 10-01-456-001**

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On July 17, 2014, the above-captioned appeals came on for consideration before the Iowa Property Assessment Appeal Board (PAAB). Upon agreement by both parties, PAAB consolidated the appeals for consideration. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Jason Miller of Property Valuation Services, Overland Park, Kansas represented the Appellant New Hawkeye Care Centers, Inc., and requested the appeal proceed without a hearing. Assistant County Attorney Lonnie Saunders represented the Board of Review. The Appeal Board now, having examined the entire record, and being fully advised, finds:

***Findings of Fact***

New Hawkeye Care Centers, Inc. protested the 2013 equalization order and the 2014 assessment of property located at 1600 13th Street, Milford, Iowa. According to the record, the subject is a one-story, 17,416 square feet, brick nursing home built in 1973 with an attached, 19,777 square feet assisted living center built in 2009. In total, the property has 40,133 square feet of gross building area and 78 beds. It has typical appurtenances such as a paved parking area, yard lights, fencing, and signage. The site is 5.907 acres.

The January 1, 2013, assessment of the subject property was \$3,606,800. It was protested to the Board of Review, and reduced to 2,984,300. After the Board of Review reduced the assessment,

the Iowa Department of Revenue issued a 15% equalization order for commercial property in the county. After the application of the equalization order, the 2013 assessment of the subject property was \$3,432,000, representing \$275,000 in land value and \$3,157,000 in improvement value. The January 1, 2014, assessment remained unchanged from 2013.

New Hawkeye protested the 2013 equalization order to the Dickinson County Board of Review under Iowa Code section 441.49. It asserted the correct fair market value is \$2,300,000. The Board of Review denied the protest and New Hawkeye appealed to this Board.

Subsequently, New Hawkeye also protested the January 1, 2014 assessment of the subject property. It protested on the grounds that the assessment is not equitable as compared with assessments of other like property, the property is assessed for more than authorized by law, and there has been a change in the value since the last reassessment under Iowa Code sections 441.37(1)(a)(1)(a) and (b), 441.37(1)(a)(2) and 441.35(2). The Board of Review denied this protest and New Hawkeye appealed to this Board. Because there was no change in value from the previous assessment, the only ground this Board can consider on appeal for the 2014 assessment is that there has been a change in value since the last reassessment. Iowa Code §§ 441.35(2), 441.37(1)(a)(2); *Equitable Life Ins. Co. v. Bd. of Review of Des Moines*, 252 N.W.2d 449 (Iowa 1977).

New Hawkeye asserts the subject property has a value of \$2,570,000, or \$64.04 per-square-foot. (Exhibit 1, p. 2). New Hawkeye developed a cost approach to value and provided comparable sales. It developed the cost approach using Marshall and Swift, a national cost publication. New Hawkeye used the Marshall and Swift depreciation tables based on convalescent hospital and elderly assisted multiple residences with wood frames to develop a cost for the subject's respective nursing home and assisted living facilities. (Exhibit 1). It chose to rely on the equalized land value of \$275,000, determined by the assessor, and included \$75,000 in undepreciated site improvements. It did not explain how it determined these estimates are market based; or why it chose to rely on the

assessor's determination of land value, but not its determination of improvement value. It appears to have depreciated the improvements by a weighted average of 43% for the two structures and determined a rounded conclusion of \$2,420,000. (Exhibit 2, page 2).

We note New Hawkeye's cost analysis is based on a total building area of 37,193 square feet even though Exhibit 1 and the property record card indicate a total building area of 40,133 square feet.

New Hawkeye also submitted four properties from Iowa that it considered comparable. (Exhibit 3). The following chart summarizes the sales submitted compared to the subject.

Comparable	Address	Sale Price	Size	\$/SF	Date of Sale	Year Built
SUBJECT	1600 13th Street, Milford	N/A	40,133	N/A	N/A	1973/2009
1	1000 Hillcrest Dr., Anita	\$750,000	16,669	\$45	March-12	1965
2	1325 N Lake Ave, Storm Lake	\$1,128,000	26,731	\$42	August-11	1970
3	700 NW 7th St, Pocahontas	\$1,150,000	25,054	\$46	August-12	1965
4	601 E Polk St, Washington	\$1,725,000	35,102	\$49	June-11	1977

New Hawkeye provided information sheets about each property; however, the information provided to determine if they are skilled nursing or assisted living centers is unclear. Further, it did not adjust the sales for differences. We note that according to the information sheet provided by New Hawkeye, the sale price of 700 NW 7th Street included \$150,000 of personal property. Adjusting for this element, the sale price for the real estate is \$1,000,000. Additionally, the sale price reported for 601 E Polk Street includes \$375,000 for "projected renovations." The sale price reported is \$1,350,000.

New Hawkeye explains it considered the Storm Lake and Pocahontas sales as the most reliable because of their location in northwest Iowa. (Exhibit 1, page 1). It uses the average unadjusted price-per-square-foot of \$46 for the older, nursing home portion of the subject improvements. In contrast, it uses \$90 per-square-foot for the assisted living facility improvements based on the assessment of 1819 23rd Street, Spirit Lake. (Exhibit 5). It appears that 1819 23rd Street is a hotel/motel, and we do not find it comparable to the subject improvements. New Hawkeye concludes an opinion of \$2,720,000.

First, a portion of New Hawkeyes' sales analysis is based on unadjusted sales of properties and we are unable to determine if they are used in a similar manner as the subject. The remaining portion of the analysis is based on a single, unadjusted *assessment* of what appears to be a hotel/motel property. Based on the foregoing, we do not rely on this analysis.

The Dickinson County Board of Review submitted a written summary of its position. (Exhibit A). It asserts the lower occupancy rates of the comparable sales submitted by New Hawkeye result in a lower price-per-bed. However, when considering sales with similar occupancy rates, the price-per-bed increases significantly. (Exhibit H). The Board of Review submitted seven sales that occurred in Iowa between 2009 and 2013. The following chart outlines the sales submitted.

Comparable	Address	Sale Price	Date of Sale	Occupancy Rate	Number of Beds	\$/Bed
1	701 Riverview, DM	\$1,504,410	March-09	78%	74	\$20,330
2	2000 Pasadena Dr, Dubuque	\$2,135,000	July-10	70%	102	\$20,931
3	114 Carter St SW, Mitchellville	\$1,569,000	May-11	94%	65	\$24,138
4	606 North 7th St, Knoxville	\$2,150,000	September-13	75%	75	\$28,667
5	530 S Linn Ave, New Hampton	\$4,000,000	February-12	87%	70	\$57,143
6	815 High Rd, Norwalk	\$7,109,496	September-11	67%	101	\$70,391
7	1611 27th St, DM	\$7,166,250	December-10	82%	78	\$91,875

There is no other information about these properties in the record. The size of the properties, year built, quality/condition, or use of the facilities for skilled nursing or assisted living are unknown to this Board. The Board of Review considered the four sales with the most similar occupancy rate, Sales 1, 3, 5, and 7, as the best indicators of value. It concludes a value between \$4,876,860 and \$5,804,580, using the median and mean price-per-bed of these four sales. (Exhibit H).

We note two issues with the Board of Review's analysis. First, the Board of Review's calculations are based on 120 beds rather than the subject's actual count of 78 beds. Second, the

Board of Review determined comparability based on occupancy rates using only the occupancy of the nursing home facility. It appears the Board of Review gave no consideration to the occupancy rate of the assisted living facility or other differences existing between the sale properties and the subject property.

The Board of Review also submitted documentation in support of an income approach. (Exhibits B, C, D, F, G, and I). In its written summary, it concludes a value by the income approach of \$6,660,037, which it says, “This indicates the petitioner’s property also has a business value component in addition to the value of the real estate.” (Exhibit A). Because the income approach appears to include business value, we give it no consideration.

Lastly, when comparing the subject to other properties, we note it is unclear if either parties comparable properties had both a skilled nursing center and an assisted living facility similar to the subject, which would likely have an impact on its value.

### ***Conclusion of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 398 (Iowa 2009); *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method." *Compiano* 771 N.W.2d at 398 (emphasis added). "Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding." *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlton Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997).

Under Iowa Code section 441.49(4), a taxpayer may protest the application of an equalization order to the board of review and subsequently appeal to this Board. The board of review and PAAB may modify the application of the equalization order to the taxpayer's assessment by adjusting the actual value of the subject property to one hundred percent of its actual, fair market value. *See* § 441.21(1)(b). However, any relief granted by the board of review or PAAB is limited to the amount of the equalization order as applied to the subject property. § 441.49(4). Here, New Hawkeye appeals the application of the 2013 equalization order and asserts the subject property's fair market value is

\$2,570,000. PAAB may only modify the 2013 assessment upon a showing that the equalized assessment of New Hawkeye's property exceeds its actual, fair market value as of January 1, 2013. Even then, PAAB's remedy is limited to the amount of the equalization order as applied to the subject property and PAAB may not reduce the value below the pre-equalized assessment of \$2,984,300.

New Hawkeye also appeals its 2014 assessment on the basis that the property has suffered a downward change in value. New Hawkeye must show the decrease in value by comparing the market value of the property as of January 1, 2014, to the actual value of the property as of January 1, 2013. § 441.37(1)(a)(2).

New Hawkeye submitted a sales analysis using four properties it considered comparable. However, the record indicates at least eleven properties were available for analysis. New Hawkeye did not adjust the comparable properties it submitted for any differences and relied solely on the sales price per-square-foot. However, it relied on these comparable sales for only a portion of the subject improvements. It also considered the assessment of another property for the newer, assisted living portion of the subject improvements. We do not find the unadjusted sale properties used by New Hawkeye, nor the use of an assessment, accurately reflect the subject property's actual market value as of January 1, 2013 or January 1, 2014.

New Hawkeye also submitted a cost analysis. First, we note that the cost approach to valuation is not the preferred method of valuation under Iowa law and should only be used when there are an insufficient number of comparable properties to complete the sales comparison approach to valuation. *Compiano*, 771 N.W.2d at 398. Here, the record suggests there are sufficient sales to value the subject by the sales comparison approach, and we hesitate to rely solely on a cost analysis.

Secondarily, the cost analysis does not appear to value all of the improvements, but rather just a portion. It acknowledges in its summary of the case (Exhibit 1) that the subject has 40,133 square feet of building area, yet the cost analysis only appears to value 37,193 square feet of building area.

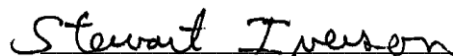
In conclusion, we find that New Hawkeye has not provided sufficient evidence establishing the subject's actual fair market value as of January 1, 2013, or January 1, 2014. It has failed to meet its burden in these appeals.

THE APPEAL BOARD ORDERS the 2013 and 2014 assessments of the property located at 1600 13th Street, Milford, Iowa, is affirmed.

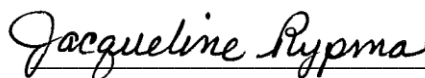
Dated this 4th day of September, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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